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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,118	12/01/2003	Tsutomu Shimotoyodome	OKI.600	9919

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EXAMINER	
ZHENG PUENTE, EVA YI	

ART UNIT	PAPER NUMBER
2611	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/724,118	Applicant(s) SHIMOTOYODOME, TSUTOMU	
	Examiner Eva Y. Puente	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Request for Continued Examination

1. The request filed on November 8, 2007, for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 10/724,118 is acceptable and a RCE has been established. An action on the RCE follows.

Response to Arguments

2. Applicant's arguments, filed on 11/8/07, with respect to the rejection(s) of claim(s) 8-16 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made. Furthermore, in applicant's remarks an information disclosure statement (IDS) has been filed including documents made of U.S Application Serial NO. 11/045,044. However, such documents are not found in IDS listing.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 8, 11 and 14 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3 and 6 of U.S. Patent Application No. 11/045,044. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented. Although the conflicting claims are not identical, they are not patentably distinct from each other because the broader application claim would have been obvious in view of the narrower copending application.

a) Claim 3 of the copending application No.: 11/045,044 recites the limitations "a signal generator using an IIR type digital filter having multipliers in a feedback loop, wherein the signal generator comprises a control unit that changes the coefficients for the multipliers;

the control unit sets the coefficients to predetermined values so as to generate output signal, and maintain the frequency of the output signal, so as to supply the output signal to stop the output signal; and the transfer function of IIR type digital filter".

On the other hand, claim 8 of the current application recites all the limitations except the transfer function of IIR type digital filter. Therefore, claim 8 of the current application merely broadens the scope of the claim 3 of the copending application No. 11/045,044

by eliminating the limitation "transfer function". It is obvious the limitations of claim 3 of copending application No. 11/045,044 read on the limitations of claim 8 of the current application.

b) Claim 6 of the copending application No.: 11/045,044 recites the limitations "a signal generator using an IIR type digital filter having multipliers in a feedback loop, wherein the signal generator comprises a selector that selects and outputs coefficients for the multiplier, the coefficients are selected from a plurality of set values;

the selector change the coefficients to predetermined values so as to generate an output signal, so that a frequency of the output signal is stopped maintained, and the transfer function of IIR type digital filter". On the other hand, claims 11 and 14 of the current application recites all the limitations except the transfer function of IIR type digital filter. Therefore, claims 11 and 14 of the current application merely broadens the scope of the claim 6 of the copending application No. 11/045,044 by eliminating the limitation "transfer function". It is obvious the limitations of claim 6 of copending application No. 11/045,044 read on the limitations of claims 11 and 14 of the current application. Further, it has been held that the omission of an element and its function is an obvious expedient if the remaining elements perform the same functions as before.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eva Y Zheng whose telephone number is 571-272-3049. The examiner can normally be reached on M-F, 7:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on 571-272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eva Yi Puente
Examiner
Art Unit 2611

January 8, 2008


CHIEH M. FAN
SUPERVISORY PATENT EXAMINER